

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

KeySpan Energy Delivery New England))
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D.T.E. 06-54

**MOTION OF
KEYSPAN ENERGY DELIVERY NEW ENGLAND FOR
PROTECTIVE TREATMENT OF CONFIDENTIAL INFORMATION**

Now comes KeySpan Energy Delivery New England ("KeySpan") and hereby requests that the Department of Telecommunications and Energy (the "Department") grant protection from public disclosure of certain confidential, competitively sensitive and proprietary information submitted in this proceeding in accordance with G.L. c. 25, § 5D.

I. BACKGROUND

On June 22, 2006, KeySpan filed its petition for approval of a firm transportation agreement with Algonquin Gas Transmission LLC ("Algonquin"). Included in its filing is certain confidential and proprietary information. Specifically, Exhibit KED-2 contains the negotiated rate for the agreement between KeySpan and Algonquin; Exhibit EDA-2 is a non-public map of the Algonquin G Lateral transmission pipeline that serves portions of Rhode Island and Massachusetts, including Cape Cod; and EDA-5 is an analysis of the annual cost of the proposed agreement. Subsequently on September 12, 2006 in response to Information Request AG 1-18, KeySpan produced a copy of a Reimbursement Agreement for Pre- Filing costs between itself and Algonquin. The agreement marked as Exhibit AG 1-18-A (confidential) contains confidential and proprietary cost estimates related to the Algonquin G- lateral upgrade project for purposes of allocating those costs

between the parties should certain circumstances occur that prevent the project from being completed.. Accordingly, KeySpan hereby requests that Exhibit AG 1-18-A (confidential) be protected from public disclosure. KeySpan has filed a redacted copy of Exhibit AG 1-18 A, deleting references to confidential and proprietary information for the public record. KeySpan has also filed a confidential copy in a sealed envelope marked “Confidential.” The Attorney General was provided a copy of the confidential response subject to the terms of a negotiated non-disclosure agreement related to this docket.

II. LEGAL STANDARD

Pursuant to G.L. c. 25, § 5D, the Department is authorized to protect from public disclosure “trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings.” The Department has developed a three-part standard for assessing requests for protective treatment submitted pursuant to c. 25, § 5D. First, the information for which protection from disclosure is sought must constitute “trade secrets, [or] confidential, competitively sensitive or other proprietary information.” Second, the party seeking protection from disclosure must overcome the statutory presumption that the public is benefited by disclosure of that information by “proving” the need for non-disclosure. Finally, the Department will protect only so much of the information as is necessary to meet the established need. See, e.g., Western Massachusetts Electric Company, D.T.E. 99-56 (1999); Dispatch Communications of New England d/b/a Nextel Communications, Inc., D.P.U. 95-59-B/95-80/95-112/96-13, September 2, 1997 Procedural Order. Appropriate considerations with respect to the public interest issue include an assessment of the interests at stake, the likely harm that would result from public disclosure of information, and the public policy implications of

such disclosure. See, e.g., Berkshire Gas Company, D.P.U. 93-187/188/189/190 (1994); Boston Gas Company, D.P.U. 92-259 (1993), Essex County Gas Company, D.P.U. 96-105 (1996).

III. BASIS FOR CONFIDENTIALITY

KeySpan seeks protection from public disclosure certain cost estimates contained in Exhibit AG 1-18-A (confidential) because they are confidential and proprietary and because they were specifically negotiated in this matter for purposes of allocating pre-filing costs between the parties should certain circumstances occur that prevent the completion of the Algonquin G-lateral project. Public disclosure of this information would set the bar for future projects and would make it virtually impossible for KeySpan to negotiate the most favorable terms with interstate pipeline companies for the benefit of its customers in the future. KeySpan respectfully requests that this information remain confidential for a period of two years following the Department's decision in this matter. In addition, KeySpan requests that it be given the opportunity to renew its request for confidentiality at that time, as appropriate.

IV. CONCLUSION

For each of the above reasons, disclosure on the public record of the proprietary and competitively sensitive information contained in Exhibit AG 1-18-A (confidential) would be detrimental to the public interest.

WHEREFORE, KeySpan respectfully requests that the Department grant its Motion for Protective Treatment as stated herein.

Respectfully submitted,

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